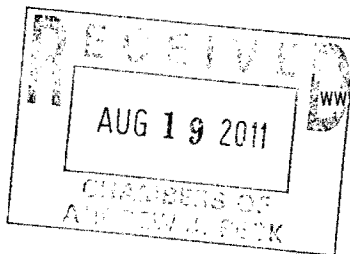


SHEARMAN & STERLING LLP



699 LEXINGTON AVENUE | NEW YORK | NY | 10022-6069

WWW.SHEARMAN.COM | T +1.212.848.4000 | F +1.212.848.7179

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BY HAND

Honorable Andrew J. Peck
Daniel Patrick Moynihan
United States Courthouse
500 Pearl Street, Room 20D
New York, New York 10007

MEMO ENDORSED

August 19, 2011

*Schedule below is approved. New schedule, drop
stake papers in the first schedule (inc. with
of 11/14) - so it might make sense to have
it made the next day with a new report
not after the quarter to drop.*

Emmet & Co., Inc. and First Manhattan Co. v. Catholic Health East and Merrill Lynch & Co., Inc.
No. 11-Civ.-3272 (RMB) (AJP)

SO ORDERED:

[Signature]
Hon. Andrew J. Peck
United States Magistrate Judge

Dear Magistrate Judge Peck:

We represent defendants Catholic Health East and Merrill Lynch & Co., Inc. (together, "Defendants") in the above-captioned matter. In accordance with paragraph 5 of the Rule 16 IPTC Scheduling Order dated July 7, 2011, we write to inform Your Honor of Defendants' intent to file motions to dismiss the First Amended Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). Pursuant to Rule 2.A of the Individual Practices of Honorable Richard M. Berman and subject to the approval of the Court, Defendants intend to submit letters to Judge Berman by September 2, 2011 requesting a pre-motion conference on a date to be set by the Court.

Subject to the approval of the Court, Defendants propose the following schedule for their motions: (i) the motions shall be due 20 days from the date of the pre-motion conference; (ii) plaintiffs' opposition to the motions shall be due 30 days from the date the motions are served; and (iii) Defendants' replies shall be due 20 days from the date the plaintiffs' opposition is served. Defendants have conferred with counsel for plaintiffs, and they have informed us that they agree to the proposed schedule.

Respectfully submitted,

*can keep: All done
pepp/ham*

BY EC

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August 19, 2011

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WINSTON & STRAWN LLP

By: Luke A. Connelly
Luke A. Connelly
lconnelly@winston.com

200 Park Avenue
New York, New York 10166-4193
(212) 294-6700

Attorneys for Merrill Lynch & Co., Inc.

SHEARMAN & STERLING LLP

By: Richard Schwed / KSS
Richard Schwed
rschwed@shearman.com

599 Lexington Avenue
New York, New York 10022
(212) 848-4000

Attorneys for Catholic Health East

cc: Honorable Richard M. Berman
Aaron H. Marks, Esq. (via email)
Gavin Schryver, Esq. (via email)

ECF TRANSCRIPTION SHEET



ANDREW J. PECK
UNITED STATES MAGISTRATE JUDGE
UNITED STATES DISTRICT COURT
Southern District of New York
United States Courthouse
500 Pearl Street, Room 1370
New York, N.Y. 10007-1312

Fax No.: (212) 805-7933
Telephone No.: (212) 805-0036

Dated: August 19, 2011

Total Number of Pages: 3

TRANSCRIPTION OF MEMO ENDORSED ORDER

Schedule below is approved. Nevertheless, discovery shall go forward on the existing schedule (inc cutoff of 11/14) – so it might make more sense to hold off and make the motion along with a summary judgment motion after the conclusion of discovery.

Copies by ECF to: All Counsel
Judge Richard M. Berman